REMARKS

The enclosed is responsive to the Final Office Action mailed on June 6, 2006. At the time the Office Action was mailed, claims 1-6 and 8-21 were pending. By way of the present response, the Applicant has: amended claims 1, 2, 9, 14, and 17; added no new claims; and canceled no additional claims. As such, claims 1-6 and 8-21 remain pending. The Applicant respectfully requests reconsideration of the present application and allowance of all claims now presented.

35 U.S.C. 103(a) Rejections

The Office Action rejected claims 1-6 and 8-21 under 35 U.S.C. 103(a) as being unpatentable over Khotimsky, et al., U.S. Patent 6,788,686 (hereinafter "*Khotimsky*").

Claim 1 has been amended. Claim 1 now recites (emphasis added):

> 1. A method comprising:
> distributing data frames among data packets comprising assigning a plurality of consecutive data frames to different data packets, wherein each data packet is to include data frames that are sufficiently far apart such that loss of any particular data packet distributes impact that the loss has on quality of recovered data, said assigning preventing each data packet from including consecutive data frames, and wherein a data packet includes a packet header and each of the data frames included in the data packet is associated with the packet header;
> packing said each data packet with assigned frames; and
> individually sending each data packet over a network to a destination node.

Claim 1 is not rendered obvious in view of *Khotimsky*.

The Office interprets *Khotimsky*'s "packet" as a "frame" in claim 1, and *Khotimsky*'s "path" as a "packet" in claim 1. Specifically, the Office Action states that

"*Khotimsky* discloses a packet (**interpreted as a frame**) transmitted on a path (**interpreted as a packet**)..." (Office Action, p. 2, emphasis in original.) To be consistent with this interpretation of *Khotimsky* and also describe amended claim 1, *Khotimsky* would have to describe individually sending each data path (interpreted by the Office as a packet) over a network to a destination node. *Khotimsky* fails to describe this.

In *Khotimsky*, a path is a concatenation of communication links and switching devices. A path is established, not sent. *Khotimsky* describes:

> When information is to be exchanged between two communication devices, a path is established within the network between the nodes (called a source node and a destination node) with which the information exchanging devices are associated. Each individual path, which is a concatenation of a number of communication links and switching devices, preserves the order of the transmitted packets and can carry only as much traffic as its link or device of the lowest capacity or available bandwidth. (*Khotimsky*, col. 1, lines 30-38, emphasis added.)

> "A packet transmitted on a given path carries a set of packet block identifications for each path pair the given path belongs to." (*Khotimsky*, col. 2, lines 57-59, emphasis added.)

Accordingly, in *Khotimsky*, a path is established, and a packet (interpreted by the Office as a frame) is transmitted on a given path (interpreted by the Office as a packet). In *Khotimsky*, the path itself is never transmitted. *Khotimsky* does not describe individually sending each data path (interpreted by the Office as a packet) over a network to a destination node.

The Office Action asserts that *Khotimsky* discloses sending the data packets to a destination node, citing *Khotimsky* at col. 1, lines 66-col. 2, line 3. (See Office Action, p. 3.) That section states:

> Partitioning an incoming data flow into segments of certain granularity, forwarding them along multiple paths to ensure fair load distribution and balancing between the paths, and re-assembly of the data flow at the destination are essential for achieving the goal of bandwidth aggregation. (*Khotimsky*, col. 1, lines 66-col. 2, line 3, emphasis added.)

As discussed above, the Office has interpreted the "path" of *Khotimsky* as the "packet" of claim 1 in asserting that *Khotimsky* describes claim 1. The section cited describes sending segments of data flow along multiple paths. The section cited above does not describe sending *paths* (interpreted by the Office as a packet) to a destination node. Under any interpretation of *Khotimsky* that is consistent for the entire claim 1 (rather than an interpretation which changes depending on which element of claim 1 is under consideration), *Khotimsky* does not teach or suggest claim 1. The section cited above also indicates that *Khotimsky* attempts to solve a completely different problem (bandwidth aggregation) than the present invention as described in the specification.

Given *Khotimsky*, it would not be obvious to individually send each path of *Khotimsky* over a network to a destination node because *Khotimsky* does not suggest or provide any motivation for sending a concatenation of communication links and switching devices over a network.

Moreover, even if *Khotimsky*'s "packet" and "path" are reinterpreted by the Office, reverting to the actual definitions used by *Khotimsky* so that a packet is no longer interpreted as a "frame" but rather as a packet, *Khotimsky* will fail to describe or suggest claim 1 because *Khotimsky* will fail to describe "assigning a plurality of

consecutive data frames to different data packets, wherein each data packet is to include data frames that are sufficiently far apart such that loss of any particular data packet distributes impact that the loss has on quality of recovered data, said assigning preventing each data packet from including consecutive data frames, and wherein a data packet includes a packet header and each of the data frames included in the data packet is associated with the packet header", as detailed in the previous responses.

Under any consistent interpretation of *Khotimsky*, a limitation of claim 1 will always be missing from *Khotimsky*, neither described nor suggested, either explicitly or to one of ordinary skill in the art given *Khotimsky*. Accordingly, claim 1 is patentable over *Khotimsky*.

Independent claims 9, 14, and 17 have also been amended. Independent claim 9 now recites:

> 9. A method comprising:
> distributing data frames of a multimedia entity comprising distributing the data frames among a plurality of data packets, wherein each data packet is to include the data frames from different parts of the multimedia entity, wherein said data frames from different parts are sufficiently spread out among said plurality of data packets to reduce an impact of a packet loss on quality of recovered data compared to packing consecutive data frames into sequential data packets, said distributing preventing each data packet from including consecutive data frames; and
> individually sending each data packet over a network to a destination node.

Although the limitations of independent claim 9 differ from that of claim 1, reasons similar to those reasons provided above regarding claim 1 are applicable to independent 9. Therefore, for at least those similar reasons, claim 9 is also patentable over *Khotimsky*.

Independent claim 14 now recites:

14. A system, comprising:
a frame distribution component comprising:
a processor configured to assign a plurality of consecutive data frames to different data packets, preventing each data packet from including consecutive data frames, wherein each data packet is to include data frames that are sufficiently far apart such that loss of any particular data packet distributes impact that the loss has on quality of recovered data; and
a packetizer to pack a current frame into a data packet assigned by said processor; and
a packet-switched network over which each data packet is individually sent to a destination node.

Although the limitations of independent claim 14 also differ from that of claim 1, reasons similar to those reasons provided above regarding claim 1 are also applicable to independent 14. Therefore, for at least those similar reasons, claim 14 is also patentable over *Khotimsky*.

Independent claim 17 now recites:

17. A system, comprising:
a data packetizing component comprising:
a frame receiving element arranged to receive a sequence of data frames including consecutive parts of a segmented data entity; and
a frame assigning element arranged to assign a current data frame in said sequence of data frames to one of a plurality of data packets, preventing each data packet from including consecutive data frames, wherein the data packet is to include the current data frame and not to include a previous data frame; and
a packet-switched network over which each data packet is individually sent to a destination node.

Although the limitations of independent claim 17 differ also from that of claim 1, reasons similar to those reasons provided above regarding claim 1 are also applicable to independent 17. Therefore, for at least those similar reasons, claim 17 is also patentable over *Khotimsky*.

Accordingly, independent claims 1, 9, 14, and 17 are each patentable over *Khotimsky*. Dependent claims 2-6, 8, 10-13, 15-16, and 18-21 each depend, directly or indirectly, from one of the foregoing independent claims. Therefore, for at least the reasons provided above, claims 2-6, 8, 10-13, 15-16, and 18-21 are each also patentable over *Khotimsky*.

Accordingly, the Applicant respectfully requests withdrawal of the rejection of claims 1-6 and 8-21 under 35 U.S.C. 103(a).

CONCLUSION

The Applicant respectfully submits that all rejections have been overcome and respectfully requests the allowance of all pending claims. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Thomas C. Webster at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully Submitted,
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